

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

BRANDON BOSTIAN,

v.

NATIONAL RAILROAD PASSENGER
CORPORATION (AMTRAK).

Case No. 2:23-CV-01975

Honorable John F. Murphy

PLAINTIFF BRANDON BOSTIAN'S MOTION TO DISMISS WITH PREJUDICE

Plaintiff, Brandon Bostian seeks a dismissal of the above action pursuant to F.R.C.P 41 (2) and avers as follows.

1. On May 12, 2015, Mr. Bostian was the locomotive engineer on Amtrak's train 188 which derailed at the Frankford Junction in Philadelphia killing eight people and injuring many others.

2. It is admitted that in the Amtrak Memo of June 29, 2015, that Mr. Bostian requested that Amtrak provide a defense in all claims and civil lawsuits related to the Frankford Junction Derailment of May 12, 2015.

3. Subsequently to a hearing held yesterday December 12, 2023, Plaintiff requests to withdraw this matter with prejudice.

4. In the interest of duplicative litigation, Mr. Bostian wishes to withdraw the instant action.

Wherefore, Plaintiff, Brandon Bostian, requests this honorable Court to allow the withdrawal of this matter with prejudice.

Respectfully submitted,

KELLER & GOGGIN, P.C.

BY: */s/ Robert S. Goggin, III*
ROBERT S. GOGGIN, III
Attorney for Plaintiff, Brandon Bostian

DATED: December 13, 2023

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**BRANDON BOSTIAN'S MEMO OF LAW IN SUPPORT OF HIS MOTION TO
DISMISS WITH PREJUDICE**

On May 12, 2015, Mr. Bostian was the locomotive engineer on Amtrak's train 188 which derailed at the Frankford Junction in Philadelphia killing eight people and injuring many others. Pennsylvania's Attorney General filed criminal charges against Mr. Bostian. A jury found Mr. Bostian not guilty on all charges on March 4, 2022.

Subsequent to the Courts Order of December 12, 2023, Plaintiff request that this matter be withdrawn with prejudice.

The Third Circuit in *McKenna v. City of Philadelphia*, 304 F. App'x 89 (3d Cir. 2008), discusses the prohibition against maintaining two separate actions involving the same subject matter and the same defendant, at the same time.

Wherefore, Mr. Bostian requests that this honorable court permit this matter to be voluntarily withdrawn with prejudice.

Respectfully submitted,

KELLER & GOGGIN, P.C.

BY: */s/ Robert S. Goggin, III*
ROBERT S. GOGGIN, III
Attorney for Plaintiff, Brandon Bostian

DATED: December 13, 2023

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a copy of the forgoing *Plaintiff's Motion to Dismiss With Prejudice* has been served upon counsel of record listed below, *via ECF Filing*, this 13th day of December 2023.

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